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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

Nos. 819 and 820

7-8

IN THE MATTER

OF

THE WESTERN PACIFIC RAILROAD COMPANY,

Debtor.

FREDERICK H. ECKER, et al.,

Petitioners,

against

WESTERN PACIFIC RAILROAD CORPORATION, et al.,

Respondents.

CROCKER FIRST NATIONAL BANK
OF SAN FRANCISCO, et al.,

Petitioners,

against

WESTERN PACIFIC RAILROAD CORPORATION, et al.,

Respondents.

**ANSWER OF IRVING TRUST COMPANY AS REFUND-
ING MORTGAGE TRUSTEE, TO PETITIONS FOR
WRIT OF CERTIORARI**

ORRIN G. JUDD,

Attorney for Irving Trust Company,
as Trustee under the General and
Refunding Mortgage of The Western
Pacific Railroad Company.

HAROLD C. McCOLLOM,
Of Counsel.

Dated: March 5, 1942.

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TIONS FOR WRIT OF CERTIORARI

By order of this Court dated February 2, 1942, the time of Irving Trust Company to file a brief in answer to the above-entitled petitions for certiorari was extended until twenty days following the action of the Circuit Court of Appeals for the Ninth Circuit on the petitions for rehearing there pending.

As pointed out in Irving Trust Company's motion in this Court dated January 16, 1942, the Circuit Court of Appeals had dismissed the appeal taken by Irving Trust Company, as Trustee of the Debtor's Refunding Mortgage (R. 2668), and had made no determination of the issues raised by that appeal (R. 1651) respecting the relative liens of the Refunding Mortgage and the Debtor's First Mortgage.

By amended order handed down February 16, 1942, the Circuit Court of Appeals set aside that portion of its former decree which dismissed the appeal of Irving Trust Company as Trustee (R. 2681); but it still made no determination of the questions of conflicting lien presented by such appeal.

In this status of the case the Refunding Mortgage Trustee, after consultation with its bondholders, has determined to take no position on the above-entitled petitions for certiorari. Both petitions relate mainly to the issues respecting capitalization and findings of value, which do not concern the Refunding Mortgage Trustee except to a limited extent; and neither of them can affect

the question of what properties are subject to the lien
of the Refunding Mortgage.

Dated: March 5, 1942,

Respectfully submitted,

ORRIN G. JUDD,
*Attorney for Irving Trust Company,
as Trustee under the General and
Refunding Mortgage of The Western
Pacific Railroad Company.*

H. C. McCOLLUM,
Of Counsel.